

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RUDY VEGA, et al,
Plaintiff,

vs.

ARNOLD SCHWARZENEGGER, et al,
Defendants.

No. C 05-4137 JSW (PR)

ORDER OF TRANSFER

Plaintiff is a state prisoner currently incarcerated at Kern State Prison, located in Delano, California, within the venue of the United States District Court for the Eastern District of California. He filed this civil rights action in the United States District Court for the Northern District of California on October 13, 2005. Although the complaint is largely incomprehensible, Plaintiff is apparently complaining of violations of his (and a group of Mexican-American inmates) civil rights while incarcerated at Corcoran State Prison, located in Corcoran, California within the venue of the Eastern District. Plaintiff has also filed a motion seeking to proceed *in forma pauperis* (docket no. 5).

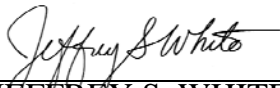
When jurisdiction is not founded solely on diversity, venue is proper in the district in which (1) any defendant resides, if all of the defendants reside in the same state, (2) the district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1391(b). Where a case is filed in the wrong venue, the district court has the discretion either to dismiss the case or transfer it to the proper federal court “in the interest of justice.” 28 U.S.C. §

1 1406(a). Venue may be raised by the court sua sponte where the defendant has not yet
2 filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790
3 F.2d 1486, 1488 (9th Cir. 1986).

4 Plaintiff apparently complains about discriminatory practices at Corcoran State
5 Prison, within the venue of the Eastern District of California. *See* 28 U.S.C. § 84.
6 Therefore, the Court will transfer this action to the United States District Court for the
7 Eastern District of California. Accordingly, IT IS ORDERED in the interest of justice,
8 and pursuant to 28 U.S.C. § 1406(a), that this action be TRANSFERRED to the United
9 States District Court for the Eastern District of California. The Clerk of the Court shall
10 transfer this matter forthwith. In light of the transfer, this Court will not decide
11 Plaintiff's pending motion.

12 IT IS SO ORDERED.

13 DATED: April 24, 2006

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16 JEFFREY S. WHITE
17 United States District Judge
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